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The Revocation of Kashmir's Autonomy: High-Risk Hindutva Politics at Play

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On 5 August 2019, India's home minister Amit Shah made a shock announcement revoking India's constitutional guarantee of autonomy to the state of Jammu and Kashmir. This article focuses on the wider ideological context of Hindu nationalism that has spurred this decision in order to assess the move's far-reaching implications for Indian democracy and peace in South Asia.

- In addition to the revocation of autonomy, a key condition of Kashmir's accession to India, India has further partitioned the state into two parts and downgraded its status to a centrally administered territory. This consolidation of the hard-line stance taken by Prime Minister Narendra Modi's government in Kashmir since assuming power is bound to fuel further alienation and resentment.
- The unilateral decision calls into question India's other federal arrangements too – for instance, with states in India's north-east that also enjoy various degrees of autonomy, increasing the chance of disaffection and instability within the country.
- The decision also has the potential to spark tensions with Pakistan and China, both of which occupy portions of Kashmir's territory. Pakistan, which lays claim to the entire Muslim-majority province, has already downgraded its diplomatic relations with India. China, which claims rights to the north-eastern portion of Kashmir, has also issued a warning.
- Increased disaffection among the Kashmiri population is also likely to spur intervention by non-state Islamic groups, resulting in long-term strife.

Policy Implications

According to a Hindu Right dictum, only a display of might will get India its due in the world. This high-risk manoeuvre in Kashmir appears to be the Modi government's way of testing this axiom. The consolidation of Hindu nationalist politics in India suggests the government is likely to take a more belligerent stance in world politics, especially in issues concerning national security. EU decision-makers can expect to deal with a more uncompromising and hard-line India in their future engagements with the country.

The End of Kashmir's Special Status

On 5 August 2019, India's home minister Amit Shah made three interrelated announcements: that, with immediate effect, India was revoking Jammu and Kashmir's autonomy within the Indian constitution; that it was partitioning the state in two; and that the ensuing entities would henceforth be administered directly by the central government. This decision, which alters the status of a contested region in South Asia – and the unilateral manner of its execution – bespeaks the ascendance of an assertive Hindu nationalism in India. It signals a significant departure from India's apparently restrained and conciliatory approach to conflict management and is bound to affect its stance in world politics.

This GIGA Focus provides a historical background to the current developments with regard to Kashmir, places it within the context of political developments in New Delhi, and unravels the consequences that a consolidation of Hindu nationalism in India will have for the country's international engagements.

Historical Background

Jammu and Kashmir's (in short, also "Kashmir") special status within India, granting it the right to have its own constitution, flag, and the entitlement to determine its permanent residents, was a result of the protracted negotiations that led to the former princely state acceding to the Indian union. Kashmir was one among the nearly 560 "princely states" comprising close to 40 per cent of British Indian territory at the time of the simultaneous independence and partition of the subcontinent in August 1947. In the lead-up to British departure, most of these states were persuaded to accede to either India or Pakistan based on territorial contiguity and/or the religious composition of the population.

Kashmir, a Muslim-majority province ruled by a Hindu *Maharaja* (king), Hari Singh, sought to remain independent, even as both India and Pakistan laid claim to it. Both countries' claim to Kashmir was based to a certain extent on the region's Muslim-majority status: while Pakistan claimed all Muslim-majority regions within the erstwhile British India, for India it offered an opportunity to showcase its multicultural, secular ethos. In an attempt to force the issue, Pakistan sent in its armed forces disguised as tribals to take over the territory in October 1947. Pushed into a corner, the Maharaja turned to India for help. India, in turn, agreed to send in its forces immediately, but on the condition that the Maharaja sign the instrument of accession to India. As per this instrument, Kashmir was to have autonomy in all affairs except foreign relations, defence, and communications. Sheikh Abdullah, one of the most popular leaders of Kashmir's freedom and anti-monarchical struggle, also lent support to Kashmir joining a secular and democratic India – on the condition that Kashmir's autonomy be respected.

On Sheikh Abdullah's insistence, Kashmir's special status was further enshrined into the Indian constitution in 1952 in the form of Article 370. It was to be the privilege of the Jammu and Kashmir constitutional assembly to decide if any further subjects would be ceded to the central government. Article 35A of the Indian constitution further underwrote Kashmir's right to determine its permanent

residents and, among other things, restricted ownership of land within the state to these permanent residents.

A Symbolic Move of Far-Reaching Significance

It is these two articles that have now been invalidated as a result of the presidential order announced by the home minister on 5 August. Not just that, the state has been divided into two – Jammu and Kashmir, and Ladakh – with the two parts downgraded to the status of union territories that will be governed directly by the centre. While the government has offered no rationale for this bifurcation, it is assumed that it is in response to a long-standing demand by the representatives of Ladakh's Buddhist population (41 per cent of the population) that the region be separated from Kashmir. From being a state with special powers underwritten by the Indian constitution, Kashmir has now effectively been rendered far less autonomous than other states within the Indian federation.

This is humiliating for a people that has agitated either for outright independence or more autonomy within the Indian union. Kashmir's accession to India – although endorsed by the ruler of Kashmir as well as the leader of a popular national movement in Kashmir – has remained contentious. India's first prime minister, Jawaharlal Nehru, had committed to Kashmir's future being decided by the wishes of its people, but India has never held the plebiscite mandated by the United Nations' Security Council (UNSC) in 1948. India's excuse for the failure to implement the plebiscite is that Pakistan did not keep its side of the bargain and did not withdraw from the part of Kashmir it held (Noorani 2011). A key condition of the plebiscite resolution was that it take place in the entirety of the former princely state of Jammu and Kashmir. At present Kashmir is divided between India, Pakistan, and China. India's bifurcation of the portion it holds further dilutes the territorial integrity of the province.

Moreover, successive central governments have, in consonance with Jammu and Kashmir's governments, diluted the provisions of autonomy (Noorani 2011). Together with heavy militarisation of the region this has meant that, in practice, the autonomy enjoyed by Kashmir has been largely symbolic. It has nevertheless been vested with immense significance.

For one, it provided a fig leaf of legitimacy to India's claim to Kashmir. It was also an article of faith for the unionists – those within Kashmir supporting the state's accession to India. Its revocation essentially transforms Kashmir into an Indian colony, confirming the worst fears of its citizens. This is further underscored by the nullification of Article 35A, which, among other things, limited land ownership in Jammu and Kashmir, sparking anxiety that the ultimate aim of the central government is to alter the demographic composition of the region through settlement from the rest of India – akin to what China has done with respect to Tibet – and in this manner render the dispute moot. India's actions in this regard are a major climbdown for a country that has thus far built its reputation on its anti-colonial credentials. Given that Article 370 sets out the constitutional relationship between India and Kashmir, its revocation, it can be argued, ends this relationship. As Mehbooba Mufti, a former chief minister of Jammu and Kashmir, who until recently headed the coalition government in Kashmir together with the BJP, tweeted after

the shock announcement of 5 August, “the abrogation of Article 370 hasn’t just made accession null and void but also reduces India to an occupation force in Jammu and Kashmir” (Mufti 2019). She is now under detention.

Subterfuge and Repression

The Indian government has argued that the revocation of the special status accorded to Kashmir has been undertaken with the aim of integrating Kashmiris into the Indian mainstream and to accord to them the same rights that other Indians enjoy. Yet the government’s actions and the unilateral and surreptitious manner in which the decision was sprung belies this claim. There was not even a semblance of consultation with the people of Kashmir. Instead, in the days leading up to the announcement, the government used the ruse of a purported terrorist threat to put Kashmir under a severe lockdown: in addition to those already stationed there, thousands of military troops were sent in; strict movement restrictions were imposed on the population and an unprecedented communication blockade set in place. Confined to their houses with access to television, internet, mobile phones, and even landlines cut off, the people of Kashmir probably did not even hear the Indian home minister make the announcement that is supposed to integrate them into the mainstream of Indian politics. Kashmiri politicians and civil society activists, including those with a pro-India stance, among them two former chief ministers of the state, Omar Abdullah and Mehbooba Mufti, were taken into preventive custody.

The rest of the Indians were equally subject to their democratically elected government’s subterfuge and disinformation campaign. Rumours of imminent terrorist attacks and the recovery of caches of weapons on the border with Pakistan did the rounds as a way of explaining away the lockdown in Kashmir. An annual Hindu pilgrimage to a shrine in the valley was abruptly cancelled and tourists were advised to leave. The home minister’s sudden announcement of the government’s decision to rescind Kashmir’s autonomy via a presidential decree to take effect immediately left no scope for any discussion in the Indian Parliament either.

Further, the amendment of a constitutional provision via a presidential decree is legally questionable. Any amendment to the Indian constitution requires the ascent of two-thirds of the members in both houses of the Indian Parliament. The BJP has the requisite numerical strength to have pushed the amendment through, yet it chose not to follow this path. Instead it has been touting its brute majority post facto as giving it the mandate to execute the majoritarian will (Varshney 2019). As an additional safeguard in the constitution, no change could be made to Article 370 without the consent of the Constituent Assembly of Kashmir. With the assembly having been dissolved in 1956, the government has argued that this function can be taken over by the legislative assembly of Kashmir. The legislative assembly of Kashmir, however, has been suspended since November 2018, following the breakdown of the coalition government in place there. So the government has instead taken the consent of the centrally appointed governor of Kashmir.

Replacing the function of a duly elected legislative body with a federally appointed person amounts, at best, to a legal sleight of hand. The ease and alacrity with which the government has altered a key constitutional guarantee raises con-

cerns about India as a constitutional democracy, rendering tenuous the constitutional safeguards that it offers its citizens.

Moreover, Kashmir was not the only state of the union to have special rights. In its effort to bring diverse peoples and regions into the union, India offered several states various constitutional and other concessions. Kashmir, for instance, was not the only state where the sale of land was regulated – eight other states (Assam, Arunachal Pradesh, Nagaland, Manipur, Tripura, Meghalaya, Sikkim, and Himachal Pradesh) continue to have similar restrictions. Article 371 of the Indian constitution accords autonomy with respect to religious and social practices, customary law, and land rights in states in the north-east of India, on the border with Bangladesh, China, and Myanmar. There is even an inner-line permit system – a sort of internal visa system – restricting entry of people from “mainland India” into Arunachal Pradesh, Mizoram, and Nagaland.

The government’s action with respect to Kashmir also puts a question mark on these asymmetric arrangements, which have helped accommodate divergent interests within the country, increasing the risk of disaffection and instability within the country. It further suggests that the central government can, on a whim, downgrade a fully functional state into a centrally governed union territory. The move, in this sense, is fully in consonance with the BJP’s stated aim of transforming India into a strong, centralised, unitary Hindu *Rashtra* (literally “kingdom,” “realm,” or “empire,” but rendered contemporarily as “state” or “nation-state”).

Project “Hindu Rashtra”

At Independence in 1947, India’s claim to Kashmir, a Muslim-majority region, was driven at least in part by a desire to bolster its pluralist, secular ethos vis-à-vis Pakistan – and to lay a claim to Islam as a part of Indian culture. To secure this purpose it was willing to afford the state more autonomy than most others in the Indian union. Votaries of Hindu nationalism (or *Hindutva*), however, opposed this move right from the beginning.

Hindutva as a political philosophy was first self-consciously articulated by Vinayak Damodar Savarkar in his 1923 book *Hindutva: Who is a Hindu?* In this book Savarkar argued that the only form of nationalism possible in India was Hindu nationalism. The Hindu, in turn, was a person who counted the territory of India (ironically the territory of then British India) as the land of their forefathers *and* as their holy land (1923: 115) – a formulation that incorporates Buddhists, Jains, and Sikhs into the Hindu fold, but explicitly others Muslims, Christians, and Parsis. In this sense *Hindutva* was inimical to *all* of India’s minority religions to the extent that it sought either to assimilate them into the Hindu fold or explicitly othered them as foreign to India.

Hindutva as a political philosophy and ideology emerged in colonial times and to an extent acknowledged the need for an anti-colonial struggle against the British; its main aim, however, appeared to be to create a united Hindu front against Muslims. Drawing very much on the orientalist history in vogue at the time, proponents of *Hindutva* saw Muslims as the “original” despoilers of an ancient and glorious Hindu civilisation. The colonial other was problematic, but even more insidious was the Muslim as the internal other. Moreover, the colonial other was a powerful

other from which India had much to learn. The quest for a Hindu national identity therefore, as Thomas Blom Hansen (1996) points out, was a two-pronged exercise: on the one hand it designated the Muslims of India as the antagonistic other, whose presence prevented the Indian/Hindu nation from fully coming into being; on the other it sought equality with, and even the *phantasma* of dominance over, the colonial other as the symbolic other from which it sought recognition.

Savarkar further traced the cause of the Hindus' repeated "enslavement" to their purported lack of unity and supposed weak and accommodative posture throughout history. The constitution of a single, cohesive national community that brooks no slight has therefore been a key aim of the Hindu nationalist project. The (largely) non-violent freedom struggle led by M.K. Gandhi against the British is, in this scheme of things, considered to be a continuation of this same weakness that first brought India to its knees – as are postcolonial India's efforts to accommodate difference and promote diversity. A former president of the BJP, L.K. Advani, for instance, referred to India's policies of minority protection as "appeasement politics." The present dispensation's fealty to this view is evident from the fact that, in one of the first speeches that he gave soon after taking oath for the first time in 2014, Prime Minister Modi spoke of the need for Indians to overcome "1200 years of slave mentality."

In the Hindutva view, therefore, there was no Muslim majority in Kashmir, since it was an integral part of *Akhand Bharat* (Unbroken or Entire India), which could have only a Hindu majority (see Bhagawan 2008). Further, Kashmir is articulated as the land of Hindu gods and goddesses that needs to be recovered from the Islamic occupiers. Such a narrative entirely fails to account for the gradual Islamisation of Kashmir since the thirteenth century AD. The Bharatiya Jan Sangh (BJS; Indian Peoples Union), the precursor of the BJP, launched an agitation against Article 370 soon after its inception in 1951. In fact, the founder of BJS, Syama Prasad Mookherjee, who died of a heart attack in prison in 1953 while protesting the article, is referred to on the BJP's website as "a martyr leading the movement for complete integration of Jammu and Kashmir." The revocation of the article has thus been on the agenda of the BJP since its inception. The exigencies of coalition politics, however, ensured that this issue remained on the back burner – until now.

It is therefore no surprise that the BJP has implemented its long-standing commitment to dismantling the autonomy in principle enjoyed by Kashmir now that it is in majority in the parliament. Yet the manner in which the decision was executed signals that the party is now unwilling to even pay lip service to democratic norms and constitutional niceties in its project to transform India into a highly centralised majoritarian Hindu *Rashtra* or state.

Majoritarian Politics

Indeed, this decision is in step with the BJP government's other initiatives since being ushered into power with a large majority in 2014, followed by an even greater majority in the subsequent 2019 general elections. In its manner of execution, it is most reminiscent of Prime Minister Modi's surprise announcement on the evening of 8 November 2016 that Indian currency notes of the denomination of INR 1,000 and INR 500 (roughly equivalent to EUR 12.60 and EUR 6.30, respectively) would

from midnight of that same date cease to be legal tender. The aim, he said, was to curtail India's shadow economy. Given that India is primarily a cash-based economy, this move led to untold misery as a result of the prolonged cash shortage in the following weeks. It also set back India's industrial production and GDP growth. The aim of recovering black money was also not met (BBC News 2017). Despite this, however, the move allowed the prime minister to project himself as a strong and decisive leader willing to take tough and potentially unpopular decisions.

In its previous term, the government had introduced a Citizenship Amendment Bill that sought to introduce a religious basis for Indian citizenship (Medha 2016). While the amendment did not go through then owing to the BJP's lack of requisite strength in the upper house of the parliament, it is likely to be pushed through this time. Since taking the reins of power for the second time in late May this year, the BJP has used its majority to rush a spate of contentious legislation through the parliament, bypassing parliamentary deliberation and scrutiny. These laws include the dilution of India's hard-won Right to Information Act and legislation that allows the government to designate individuals as terrorists and seize their property. As many as 33 bills have been passed by the parliament in its first session. While opposition members have critiqued this *modus operandi*, the prime minister emphasised the efficiency and decisiveness with which parliamentary business was being conducted in his Independence Day address to the nation on 15 August 2019.

The decision on Kashmir has definitely galvanised the BJP's Hindu majoritarian voter base, which has greeted the move with triumphant euphoria. There is a distinct glee with which people and a number of pro-government newspapers and television channels have responded to the removal of the special status of India's only Muslim-majority province. This is evident from a number of tweets and WhatsApp messages that appeared within hours of the announcement by the home minister expressing joy over the fact that people could now buy land in "the paradise on Earth" (as Kashmir is often termed). They also claimed that they could now marry "those fair Kashmiri women" – a claim that is as bizarre as it is telling. Bizarre because there has never been any prohibition on inter-marrying; telling because the project of Hindu nationalism has always been about the exercise of masculine power through control and ownership of women (see for instance Sarkar 2001). This claim was repeated by at least two BJP leaders, including a presiding chief minister, who joked about how "we can now bring girls from Kashmir also" (*Scroll* 2019). In fact, an entire new sub-genre of songs celebrating a claim to Kashmiri brides and land has emerged on YouTube (see for instance *Scroll* 2019).

The question of the consent of these women, like that of the population of Kashmir, is of course never even considered. The government seems to have determined that its actions, no matter how much they violate democratic norms, will be of little electoral cost since they appear to represent the "will of the people." To this extent, therefore, the BJP has interpreted its huge mandate as a mandate to fulfil its project of transforming India into a Hindu Nation.

International Ramifications

The matter of Kashmir, despite the Indian government's assertion to the contrary, is of course not simply a matter internal to India. Pakistan, which controls a signifi-

cant proportion of the territory as a result of its incursion in 1947, has never given up its claim to it. The two countries have fought four major wars (in 1947, 1965, 1971, and 1999) over the issue and there is a near permanent low-intensity conflict across the Line of Control (LoC) dividing Indian-held Kashmir from the territory held by Pakistan. Another party to the conflict is China, which lays claim to and controls the Aksai Chin plateau in the north-east of Kashmir. India, Pakistan, and China are all nuclear powers.

Hours after the announcement on Kashmir, Pakistan lodged a strong protest, withdrew its ambassador from India, and downgraded its diplomatic and trade relations with the country. China, too, issued a warning that India's unilateral changing of the boundaries of a contested region constituted an act of aggression. Pakistan also lodged a complaint in the United Nations Security Council (UNSC), where the matter was discussed in a closed-door session. So far India's response has been to insist that its actions on Kashmir are simply administrative measures internal to India. Even as the UNSC emphasised the need for bilateral talks between India and Pakistan (CNN 2019), India's defence minister, Rajnath Singh, asserted that India would speak to Pakistan only about "Pakistan Occupied Kashmir," India's term for the portion of Kashmir held by Pakistan (Pakistan, in turn, refers to this as Azad – or free – Kashmir). He also said that India's unofficial "no-first-use" doctrine with respect to nuclear weapons was not set in stone (Express Web Desk 2019).

Under Prime Minister Modi's leadership, India has increasingly taken publicly belligerent stances on issues associated with what it deems national security. For instance, in February 2019, in response to a cross-border terrorist attack on a military convoy in Kashmir, India claimed to have conducted raids destroying terror camps deep inside Pakistan's territory, creating a war-like situation that lasted for weeks. In the election campaign weeks after the purported strikes in Pakistan, PM Modi boasted that it was in his nature to "settle all scores" and that his principle was to "enter their houses to kill them" (Kateshiya and Ghosh 2019). Given such an approach, the situation with Pakistan could deteriorate very easily and quickly.

Within Kashmir, too, the BJP-led government has, since taking the reins of power in 2014, disturbed the fragile and uneasy peace that had taken hold in the valley, responding to even routine protests with excessive use of force. It wilfully ignored UN Office of the High Commission for Human Rights (OHCHR) reports on human rights violations in the province (Chaudhury 2019) and went ahead and instituted an unprecedented lockdown in Kashmir in the lead up to the announcement of 5 August. In the present scenario, the Indian government has argued that all trouble in Kashmir was a result of its autonomy. The revocation of Article 370, it argues, will put an end to separatist sentiment, end cross-border terrorism, and lead to development and ultimately peace in the valley. The fact of the matter is that the Indian government's actions have completely undermined the position of pro-India unionist parties in Kashmir and reinforced the beliefs of those who wanted to separate from the country. In keeping the population of Kashmir under prolonged lockdown, it is perhaps hoping that it will be able to wear down the resistance. Given the history of Kashmir and the depth of the alienation of people there (for a report of the situation on the ground see report by Drèze et al. 2019), this is unlikely. In the long term the desire to break away from India is bound to grow, providing a boost to the low-intensity insurgency in place there. Pakistan's attempts at cross-border

interventions are likely to find increased local support, and the region is also likely to become susceptible to intervention by non-state Islamic actors.

The Indian government cannot but be aware of the long-term impact of its move on the ground in Kashmir. This only implies that it is willing to continue its suppression of any expression of dissent in the valley for as long as necessary. While this is likely not to bother its Hindu nationalist voter base domestically, it also seems to have calculated that its emerging power status and potential to be a “democratic” bulwark against authoritarian China implies that it will not face much international opprobrium either.

Indeed, four permanent members of the UNSC – the US, the UK, Russia, and France – seem to have accepted India’s stance that the issue is internal to India and urged India and Pakistan to solve this bilaterally. Even China’s dissent relates merely to the reorganisation of the Ladakh region to which Aksai Chin, the territory it claims, belongs (CNN 2019).

An Increasingly Assertive Hindu Nationalist Foreign Policy

Until recently, India has drawn upon the history of its largely non-violent independence struggle and the perceived democratic nature of its polity to construct for itself the position of a moral actor in world politics. It has presented itself as a responsible global citizen and an advocate for other developing nations. Its approach towards conflict management has been to emphasise, at least ostensibly, a willingness for reconciliation, strategic restraint, and the propensity to take the moral high ground. An example of this is the country’s “no-first-use” doctrine with respect to nuclear weapons. In each of its wars with Pakistan, India has emphasised that it was Pakistan that was the initiator of the conflict.

In the Hindu nationalist scheme of things, such a stance is seen as expressing weakness and a lack of resolve. As pointed out previously, under PM Modi, India appears to have become more willing to act as the initiator of conflict, at least in situations that it views as having a bearing on India’s security. India’s assertive behaviour in its immediate neighbourhood, in turn, is presented as demonstrating to the world that it will not take any threats lying down and as a sign that it is no longer willing to play the pushover. It has been helped in this by its status as an emerging power with a large market. Its prior efforts at building a reputation as a restrained actor at the receiving end of aggression from Pakistan and China have ironically led the international community to give it the benefit of doubt. German and European policymakers have also often ignored the Hindu nationalist BJP’s contentious domestic policies as they have sought to prop up “the world’s largest democracy” against China.

The closed-door meeting that the UNSC held on the topic of Kashmir in response to Pakistan’s complaint, for instance, failed to even come up with a joint press statement. It has been reported that the 15 member countries of the UNSC were concerned that by the very fact of holding a meeting they were exhibiting bias towards Pakistan – and that France, Germany, and the United States were not comfortable with any language that might make it seem that the UNSC was broadening the scope of the dispute beyond that of a bilateral dispute between India and Pakistan (CNN 2019). This simply reinforces India’s calculation that it is unlikely to

face any material consequences for this move. European and German policymakers can expect that India will increasingly take a more aggressive and uncompromising stance in world politics. While previously a desire to be perceived as “a moral actor” and “a responsible citizen of the world” had an influence on India’s policies, this is unlikely to be a consideration in the future.

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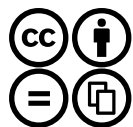
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